

### REMARKS

Favorable consideration of this application is respectfully requested.

Claims 1-10, 20, 22, and 25 - 26 are currently active in this case. Claims have been **amended/added/cancelled** by way of the present amendment. Each pending claim is supported by the specification and claims as originally submitted and no new matter has been added.

In the outstanding Office Action, Claim 1 was rejected under 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention; Claims 1-5, 7-10, 20, 22, and 25-26 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Collins-Rector, et al.* (US Patent No. 6,188,398), in view of *Hurwitz*, (US Patent No. 6,256,669), in further view of *Parthasarathy, et al.* (US Patent No. 6,802,061) and Claim 6 was rejected under 35 U.S.C. 103(a) as being unpatentable over *Collins-Rector, et al.* in view of *Hurwitz*, in further view of *Parthasarathy, et al.*, and in further view of *Chang, et al.* (US Patent No. 6,715,126).

Applicants have amended the claims for clarity. Applicants respectfully submit that the clarity amendments have rendered moot the rejection under 35 USC 112, second paragraph.

Applicants respectfully traverse the rejection of Claim 1 as being unpatentable over Collins-Recotor in view of Hurwitz and further in view of *Parthasarathy*. Claim 1 recites:

1. (Currently Amended) ~~A method of producing a rich media player on-the-fly, comprising the steps of:~~

after receipt of a rich media request from a consumer web browser invoking a link on an e-tailer web page, building a set of rich media players on-the-fly at a third party server, comprising,

accessing a predefined template comprising a basic movie player having track locations and designed to operate at a predetermined connection speed [[:]] ,

applying a set of selected tracks to the track locations of said template [[:]] , and

saving the player in a place accessible on the third party server, and

repeating the steps of accessing, applying and saving for a each of a set of predefined templates designed to operate at different predefined connection speeds when the player is needed to play content matching the player's connection speed;

receiving a connection speed identifier;

uploading one of the built on-the-fly players player corresponding to the connection speed identifier from the third party server to the consumer web browser; and

serving the requested rich media content to the uploaded player;

wherein the steps of accessing, applying, and saving occur on-the-fly after receipt of a rich media request from an end user computer system.

However, the cited references fail to teach or suggest similar subject matter.

Applicants respectfully traverse the assertion in the outstanding Office Action that indicates *"The template is met by the HTML page and frames as displayed by the Web Browser shown in Fig. 2, which further comprises a movie/video player as met by QuickTime 3 or similar browser plugin, ..."*

Applicants acknowledge that an HTML page and plug-in movie player may be able to functionally replicate playing a movie, but the process in which the movie is provided and the process of getting the movie player in place are entirely different.

One main difference is that the template provided by Collins-Recotor is an HTML template that frames a movie player such as a QuickTime 3 browser. However, as claimed in Claim 1, the accessed template is *"a basic movie player having track locations and designed to operate at a predetermined connection speed."* Therefore, Collins-Rector describes an HTML page programmed to frame an existing elsewhere installed movie player with buttons or other HTML features. In contrast, the claimed invention is a movie player with customizable track locations.

Another main difference is that in a browser/movie plug-in scenario, the movie player is installed in the browser before the movie is requested and is typically available to play any movie. Applicants also note that in some cases, a movie plug-in may be downloaded after a media request and then installed just prior to playing of the movie. In fact, under the *Parthasarathy* scenario (discussion below), the movie player may not even be located until after the media request has been received. Applicants respectfully acknowledge each possibility. However, neither the pre-installed movie plug-in, the movie plug-in installed after a media request, or the movie plug-in installed after being identified after a media request, is similar to Applicant's built on-the-fly movie player. As claimed in Claim 1,

Applicant's movie player is not even built until after the rich media request is received.

None of the cited references indicated building the movie player after receiving a media request. Collins-Rector relies on an existing movie player to fill one of the HTML frames. Hurwitz only provides a method for making the appropriate connection speed and fine tuning it in real time. *Parthasarathy* only indicates a search tool to find an existing plug-in or application. None of the cited references teach or suggest building the movie player on-the-fly.

Yet another difference is that in the typical movie plug-in scenario (e.g. Quicktime), it is the movie player that determines the connection speed at which to operate. However, in the claimed invention, the movie player is not even uploaded to the viewing browser until after the connection speed has been determined. It is worth noting that a selection process is inherent in the claimed invention. That is, upon receipt of the connection speed, the player corresponding to the connection speed is uploaded.

As admitted in the outstanding Office Action, the claimed step of "Uploading a built on-the-fly player corresponding to the connection speed identifier..." is not met by the Collins-Rector and Hurwitz references. Applicants respectfully traverse the assertion in the outstanding Office Action that equates *Parthasarathy's* method for automatically downloading computer components as teaching or suggesting any portion of "uploading a built on-the-fly player." In particular, Applicants respectfully note that *Parthasarathy's* method is directed to downloading and installing existing components in an existing application, such as a browser. However, Applicants claimed invention is related to how to build a rich media player on-the-fly and then download the on-the-fly built player along with serving rich media content to the player.

Applicants acknowledge *Parthasarathy's* apparent ability to "*automatically send, install, and display virtually any type of component or plug-in,*" however, this is not what is claimed in Claim 1. Although Applicants claimed uploading and serving are also performed on the fly, it is important to note that Applicants actually build the movie player itself on-the-fly in addition to uploading it, all after receipt of the media request (and the upload occurring after receipt of the connection speed identifier). None of the cited references indicate any capability or desire to build movie players on-the-fly.

Therefore, Applicants respectfully submit that several features of the claimed invention in Claim 1 are not taught or suggested by the cited references. Accordingly, Applicants respectfully submit that Claim 1 is patentable.

Based on the patentability of independent Claim 1, Applicants further respectfully submit that dependent Claims 2-10, 20, 22, 25, and 26 are also patentable. If the Examiner disagrees with any of the foregoing, the Examiner is requested to telephone the undersigned who will be more than happy to work with the Examiner in a joint effort to resolve any outstanding issues.

Consequently, no further issues are believed to be outstanding, and it is respectfully submitted that this case is in condition for allowance. An early and favorable action is respectfully requested.

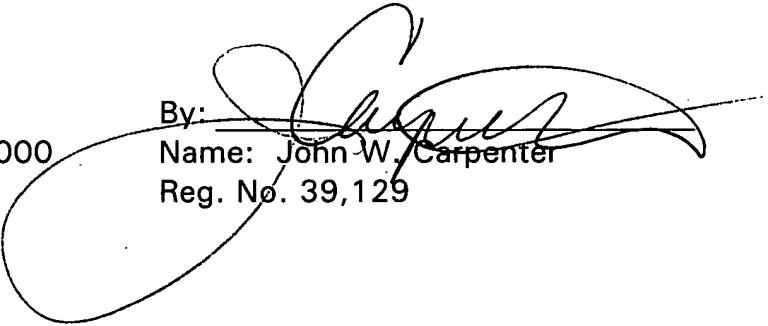
The Commissioner is hereby authorized to charge any fees (or credit any overpayment) associated with this communication and which may be required under 37 CFR §1.78 to Deposit Account No. 50-2603, **referencing Attorney Docket No. 355118.00400. A duplicate sheet is attached.**

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Respectfully submitted,

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